

As to a), the specification at page 11 has been amended to indicate that the auger is not shown in the drawings. A person skilled in the art would know that an extruder auger is an internal mechanism that controls the output rate of the extruder. Adjustment of the auger is tantamount to adjusting the production rate. A separate drawing showing the inside of the extruder should not be necessary because this fact is widely understood.

As to b), the item "102" is a belt, as explained at page 10, line 15 of the specification. The item "107" should have been "106", and FIG. 9 has been so amended.

As to c), the reference line from the numeral "124" has been extended, and a second reference line has been added, to clarify the reference to stripes.

As to d), FIG. 14 has been amended to include proper reference lines extending from the numerals "127" and "136".

As to e), FIG. 14 has been amended to delete the number "111" initially appearing above "123", because there is no reference to "111" in the specification.

As to f), FIG. 16 has been amended to properly label the item "138".

As to g), the specification has been amended at page 16, line 23, to indicate that "139" refers to individual pieces of the confectionery product.

As to h), FIG. 14 has been amended to delete the reference numerals "145" and "151" because they are not referred to in the specification.

Applicants believe that the drawings are now acceptable, and respectfully request withdrawal of the objections a-h.

The Specification

In response to paragraph 12 of the Office Action, Applicants have amended all the trademarks in the specification to include all capital letters immediately followed by generic terminology. Applicants would like to thank the Examiner for this helpful suggestion. Withdrawal of this objection is respectfully requested.

In response to paragraph 13 of the Office Action, the further objections to the specification (labelled a-g by the Examiner) are respectfully traversed for the following reasons.

As to a), the reference to "Figure 4" on page 6, line 28, should have instead been to "Figure 6". The specification has been so amended.

As to b), FIG. 11 has been amended to indicate the proper reference to the roller 101.

As to c), the specification at page 11, line 16, has been amended to indicate that the "device" which applies the dusting compound is not shown in the drawings. Because this device is conventional and known, its detailed description is not believed to be essential for an understanding of this invention.

As to d), the specification at page 12, line 3 actually refers to a "sheet 120" instead of a "sheet 20". FIG. 13 has been amended to refer to the sheet 120.

As to e), the specification at page 16, lines 16-17 has been amended to indicate that the tray is not shown in the drawings.

As to f), the word "bit" at page 19, line 13, has been corrected to read "bin".

As to g), the second period has been deleted at page 19, line 30.

Applicants believe that the specification is now acceptable, and respectfully request withdrawal of these objections.

Claim Rejections - 35 U.S.C. § 112

In response to paragraphs 14-17 of the Office Action, Applicants have amended claims 16-28 to replace the word "method" with "chewing gum product". Applicants have further amended claim 17 to delete the word "continuous". Applicants believe that the claim rejections under 35 U.S.C. § 112 have been overcome by these amendments, and respectfully request withdrawal of these rejections.

Claim Rejections - 35 U.S.C. §§ 102(b) and 103

Referring to paragraphs 19-29 of the Office Action, the Examiner rejected claims 15, 28, 51, 52, 54, 56-58, 60, 62 and 64 under 35 U.S.C. § 102(b) as anticipated by or, alternatively, under 35 U.S.C. § 103 as obvious over, Puglia et al. (U.S. Patent 4,352,824). The Examiner also rejected claims 1-6, 8, 15-19, 21, 28, 51-54, 56-60, 62 and 64 under 35 U.S.C. § 102(b) as anticipated by or, alternatively, under 35 U.S.C. § 103 as obvious over, Cherukuri et al. (U.S. Patent 4,971,806).

In response, Applicants have amended the independent claims 1, 51 and 57 to indicate that the second confectionery mass, which is visible from the top surface of the product with the first chewing gum mass, is not visible from the bottom surface of the product. Support for this amendment is found at page 5, lines 23-24 of the specification. Independent claim 1 (and dependent claim 15) have been further amended to indicate the presence of a plurality of second masses embedded in the first mass. The

amended claims recite chewing gum products which are not disclosed or suggested in the prior art, for the following reasons.

Chewing gum products having multiple colors, and including more than one confectionery component, have been very difficult to produce using conventional technologies. The reasons for this are a) chewing gum sticks are thin, typically having a thickness of about 0.055 inch, b) it is required that chewing gum sticks be strong in spite of their thinness, and c) efforts to combine chewing gum heterogeneously with other confectionery materials have resulted in products which are easy to separate at the boundaries between the chewing gum and the second confectionery material, even when the second confectionery material is another chewing gum product.

For example, one method of combining two chewing gum materials suggested in the art is to extrude two ropes of different chewing gums with different colors, twist the ropes together in a braided fashion, and then press the combined ropes to the thickness of a chewing gum stick to create a striped product. Cherukuri et al. suggests this method at col. 9, lines 42-45, with the different colors being suggested at col. 2, lines 66-68. The problem inherent in this method is that there are at least some regions along the length of the pressed chewing gum sticks where the two chewing gum products are joined only at their respective edges. As a result, localized separation can occur, especially during cutting and wrapping, causing the product to have a cracked or broken appearance.

Another method of combining two chewing gum materials suggested in art, is by lamination (for example, by coextrusion) of two essentially flat chewing gum layers.

This method is suggested in Cherukuri et al. at col. 2, lines 32-33 and col. 9, lines 45-48; and in Puglia et al. at col. 2, lines 42-53. Chewing gum products combined by this method have less tendency to separate because the layers are joined at their main planar surfaces instead of edge-to-edge.

However, due to the inherent nature of the coextrusion process and the equipment involved, the end products are limited to having a single mass on top which runs parallel to a single mass on the bottom. If the coextrusion dies are of the same width for the top and bottom layers, then the top layer will completely cover the bottom layer. If the coextrusion dies have different widths, then one layer may, at best, appear as a single continuous stripe running down the middle of the other layer. The conventional coextrusion process will not produce a plurality of second masses or stripes appearing on the surface of a first chewing gum mass.

The present invention is a chewing gum product having a heterogeneous (for example, striped or spotted) appearance made by a unique process which overcomes the foregoing disadvantages. In the process used to make the product of the invention, only the first chewing gum material is initially extruded as a slab or sheet. The second confectionery material is then deposited as a rope, or a plurality of ropes, or a plurality of other masses, onto a surface of the first chewing gum slab or sheet. Then, the rope, ropes, or other masses are pressed into the slab or sheet to form a heterogeneous product.

By avoiding the conventional coextrusion process, the product of the invention is not limited to a single stripe but can have a multi-striped or spotted appearance

resulting from the use of a plurality of second masses in combination with the first chewing gum mass.

By avoiding the conventional method in which two chewing gum ropes are simply twisted or braided, and then pressed, the product of the invention contains no region in which the first and second masses are joined only at edges having thicknesses of the chewing gum stick. Instead, every second mass is imbedded into the first mass so that the first and second masses are joined along a main lower surface of each second mass as well as at two or more edges of each second mass. By reciting that the second masses are not visible from the bottom surface of the product, the claims now inherently require that the first mass is continuous and uninterrupted at the bottom surface of the product. The potential for random separation or cracking between the first and second masses is thereby avoided.

The rejections of the claims over both prior art references are respectfully traversed in view of the foregoing amendment. The claims, as now presented, recite advantageous product limitations which inherently cannot be provided using the conventional processes described in the prior art. Independent claim 1 recites a plurality of second confectionery masses embedded into the first chewing gum mass. This product inherently cannot be provided by a conventional coextrusion process which, as explained above, would provide only one continuous film of a second confectionery mass. Claim 1 also recites that the second masses are not visible from the bottom surface of the product. This product inherently cannot be provided using the conventional process in which two ropes are twisted and braided, and then pressed into a chewing gum stick.

Applicants note that the Examiner has rejected claims 15-19, 21 and 28 separate from claim 1. However, these claims all depend from claim 1, and should be patentable at least for the same reasons as claim 1. Additionally, neither Puglia et al. nor Cherukuri et al. discloses or suggests the method steps recited in claim 15, wherein a plurality of second confectionery masses are formed and pressed into a slab of first chewing gum having a generally flat surface, to form a flat sheet.

Independent claim 51 recites a product in which a rope of a second confectionery material is embedded into a slab of a first chewing gum, so that the rope is visible from the first flat surface of the slab but not the second surface. This product cannot be made by a conventional coextrusion process, in which two flat layers (as opposed to a rope and a slab) are joined together. This product also cannot be produced by the conventional method of twisting and braiding two ropes which, inherently, would result in both ropes being partially visible from the bottom of the product as well as from the top.

Independent claim 57, like claim 1, recites a product in which a plurality of second confectionery masses are embedded into a first chewing gum slab, so as to be visible from the first flat surface of the slab but not from the second surface. This claim should be patentably distinct for the same reasons as claim 1, discussed above.

The remaining rejected claims each depend from one of the independent claims (1, 51 or 57) and should be patentable for the same reasons as the corresponding independent claim.

Applicants believe that the claims, as now presented, are in condition for allowance. Withdrawal of

the rejections under 35 U.S.C. §§ 102(b), 103 and 112, and passing of the case to allowance, are respectfully requested. If the Examiner still believes that one or more claims are not patentable, then Applicants' undersigned attorney would appreciate an opportunity to discuss the case with the Examiner by telephone. The undersigned can be reached at (312) 321-4245.

Respectfully submitted,

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